SUPREME COURT

OF THE

United States.

OCTOBER TERM, 1901.

Nos. 181 and 182.

THE UNITED STATES TRUST COMPANY
OF NEW YORK, ET AL., Appellants.

VS.

TERRITORY OF NEW MEXICO.

THE TERRITORY OF NEW MEXICO, Appellant,

VS.

THE UNITED STATES TRUST COMPANY
OF NEW YORK, ET. AL.

Counsel for the Territory of New Mexico has re-

ceived printed copies of a "Petition for Re-hearing," which, it is assumed, is about to be filed on behalf of the Trust Company and Receiver, but he is unable to discover therein anything to which he desires to make answer at this time, or anything beyond what has heretofore been urged upon the attention of the court.

Inasmuch, however, as these cases are to be again obtruded upon the court, necessarily consuming some of its time and attention, it is believed there can be no impropriety in offering a suggestion as to the judgment, based alone upon what is contained in the opinion of the court, without re-arguing anything whatever.

One of the questions presented to the court, was as to whether the Territory were not entitled to the statutory interest of twenty-five per centum per annum on delinquent taxes from the dates respectively when each year's taxes become delinquent, the supreme court of New Mexico having held that the provision for that interest was repealed by legislation of 1899. As to such alleged repeal, this court says that it may be "doubtful whether the legislature intended to remove the penalty of twenty-five per cent interest in respect to this property," but, without passing on that point, holds that the owners of the railroad were justified in contesting their liability, that until the identification of the property and a determination of the amount of taxes, it would be inequitable to charge penalties for non-payment, and that, therefore, there was no error in refusing interest prior to the decree. Counsel has no desire to question the fairness or equity of this

holding, but suggests, if it be true that the legislature in 1899 did not intend to abolish the twenty-five per cent on taxes then delinquent, that that interest can properly be charged from the date of the decree which ascertained the amount of the taxes. The reason for refusing to allow such penalty before decree, which the court gives, certainly does not exist after the decree.

F. W. CLANCY,

Counsel for Territory of New Mexico.